



Senate

General Assembly

February Session, 2004

File No. 454

Senate Bill No. 514

Senate, April 5, 2004

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING AN EMERGENCY JUDICIAL RESPONSE SYSTEM FOR FAMILY VIOLENCE CASES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2004*) (a) For the purposes of
2 this section, "family violence" has the same meaning as provided in
3 section 46b-38a of the general statutes.

4 (b) Upon application by a victim of family violence made through
5 the law enforcement agency for the town in which the applicant
6 resides, any judge of the Superior Court, at any time when the courts
7 are closed, may make such emergency orders as the judge deems
8 necessary for the protection of the applicant, including relief as
9 provided in subsection (b) of section 46b-15 of the general statutes or
10 subsection (e) of section 46b-38c of the general statutes, as amended, if
11 the applicant alleges an immediate and present physical danger to the
12 applicant. In the discretion of the judge, any such order may be issued
13 ex parte and immediately communicated by telephone, facsimile or

14 other electronic means to the law enforcement agency for the town in
15 which the applicant resides and, if the respondent resides in a town
16 different than the town in which the applicant resides, to the law
17 enforcement agency for the town in which the respondent resides. Any
18 such order shall be recorded or electronically transmitted on a form
19 prescribed by the Office of the Chief Court Administrator. The law
20 enforcement agency for the town in which the respondent resides
21 shall, if the respondent can be located, notify the respondent that such
22 order has been issued and communicate to the respondent the terms of
23 such order in an expeditious manner. Such order shall remain in effect
24 until the next court day, unless extended by the court, with notice and
25 opportunity to be heard afforded to the respondent, pursuant to an
26 application for relief filed by the applicant under section 46b-15 or 46b-
27 38c of the general statutes, as amended.

28 Sec. 2. Section 53a-223b of the general statutes, as amended by
29 section 6 of public act 03-98, is repealed and the following is
30 substituted in lieu thereof (*Effective October 1, 2004*):

31 (a) A person is guilty of criminal violation of a restraining order
32 when (1) (A) a restraining order has been issued against such person
33 pursuant to section 46b-15, as amended, [or] (B) a foreign order of
34 protection, as defined in section 46b-15a, as amended, has been issued
35 against such person, after notice and an opportunity to be heard has
36 been provided to such person, in a case involving the use, attempted
37 use or threatened use of physical force against another, or (C) an
38 emergency order has been issued against such person pursuant to
39 section 1 of this act and such person has received actual notice of such
40 order from a law enforcement agency, and (2) such person, having
41 knowledge of the terms of the order, (A) does not stay away from a
42 person or place in violation of the order, (B) contacts a person in
43 violation of the order, (C) imposes any restraint upon the person or
44 liberty of a person in violation of the order, or (D) threatens, harasses,
45 assaults, molests, sexually assaults or attacks a person in violation of
46 the order.

47 (b) Criminal violation of a restraining order is a class A
48 misdemeanor.

This act shall take effect as follows:	
Section 1	<i>October 1, 2004</i>
Sec. 2	<i>October 1, 2004</i>

JUD *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Judicial Dept.	GF - Cost	Minimal	Minimal

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 05 \$	FY 06 \$
Municipal Police Departments	None	None	None

Explanation

The bill allows a victim of family violence to apply for an emergency protective or restraining order through local police departments when court is not in session. This would result in a workload increase for Superior Court judges in the Criminal and Family Divisions, as they would be required by the bill to review applications and make emergency orders when court is not in session. There would be no associated Personal Services cost since judges are not compensated for overtime.

The court issues about 20,000 protective (criminal) orders and 5,500 restraining (civil) orders annually. About one half of these orders, or 12,750, are issued *ex parte* (i.e., without a hearing). It is estimated that up to 7,650 of these *ex parte* orders could be issued when court is not in session since approximately 60% of domestic partner violence occurs between 6 p.m. and 6 a.m.¹ On average, up to twenty-one applications for emergency orders could be made daily under the bill.

The Judicial Department would incur a one-time, minimal cost to provide some judges with fax machines to facilitate the transmittal of

orders to local law enforcement. It would also incur on-going, minimal costs to provide judges with mobile phones in order to communicate with law enforcement.

The bill requires that local law enforcement agencies locate and communicate to the relevant parties the issuance and terms of certain orders. While passage of the bill may result in a workload increase for municipal police, it is not anticipated that there will be a need for additional resources.

¹ Source: U.S. Department of Justice Bureau of Justice Statistics Special Report. Intimate Partner Violence. May 2000. Page 5.

OLR Bill Analysis

SB 514

**AN ACT CONCERNING AN EMERGENCY JUDICIAL RESPONSE
SYSTEM FOR FAMILY VIOLENCE CASES****SUMMARY:**

This bill permits judges to issue *ex parte* (without a hearing) orders, including protective (criminal) and restraining (civil) orders after courts are closed to protect victims of family violence. Any such order is effective until the next court day, unless a victim asks for an extension and a judge grants the request after affording the respondent of the order notice and an opportunity for a hearing. "Family violence" is an incident between family or household members that either causes physical injury or creates fear that physical injury is about to occur, but it does not include verbal abuse or arguments. "Family or household members" are spouses, former spouses, parents and their children, people age 18 or older related by blood or marriage, people age 16 or older either living together or who have lived together, people who have a child together, and people in or formerly in a dating relationship.

The bill covers victims who apply for the appropriate emergency order through their local law enforcement agency and allege an immediate and present danger. Once a judge issues the order, he must immediately call, fax, or otherwise electronically communicate it to the law enforcement agency and to the same such agency in the town where the respondent lives, if different. The law enforcement agency in the town where the respondent lives must immediately attempt to locate him and tell him about the order and its terms.

The bill also makes it a class A misdemeanor for the respondent of an emergency order to knowingly violate its terms. A class A misdemeanor is punishable by up to one year in prison, a \$2,000 fine, or both.

EFFECTIVE DATE: October 1, 2004

BACKGROUND

Standard Terms in Protective and Restraining Orders

Among other things, these orders prohibit the respondent from restraining, threatening, harassing, assaulting, molesting, sexually assaulting, or attacking the victim, or entering the victim's home.

Related Bill

sHB, also favorably reported by the Judiciary Committee, creates an exception to the requirement for peace officers to arrests anyone they suspect has committed a family violence crime.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Report

Yea 36 Nay 3